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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,795	01/17/2001	Ken Wright	DATCAR.003A1	5945
20995	7590	10/20/2006	EXAMINER	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			NGUYEN, HUY THANH	
			ART UNIT	PAPER NUMBER
			2621	

DATE MAILED: 10/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/761,795	<b>Applicant(s)</b> WRIGHT ET AL.	
	<b>Examiner</b> HUY T. NGUYEN	<b>Art Unit</b> 2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on amendment filed 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 37-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/24/06</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

2. Claims 37-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Tahara et al (5,909,551) , Nishihara and Wong (6,260,021) .

Regarding claim 37, Herzog discloses a system for selecting and automatically recording medical image data onto a data storage medium, the system being connected to a medical image server, the system comprising:  
an application server;

Art Unit: 2621

a plurality of production stations( 19,21,20); a plurality of browsing terminals; (column 4,lines 15-23)

a network connecting the application server (column 4, lines 15-23, Figs 1-2) the plurality of production stations and the plurality of browsing terminals, wherein the application server is configured to receive medical image data from the medical image server, the application server further comprising:

a selection module configured to allow a user to select selected medical image data via at least one of (a) a selected one of the plurality of browsing terminals and (b) the application server (column 3, lines 30-55, column 4, lines 15-25) ,

a search module configured to automatically search the medical image server for related medical image data that is related to the selected medical image data,

a configuration data module configured to allow a user to input identifying information relating to the selected medical image data (column 3, lines 20-30) ,

a production station selection module configured to allow a user to select one of the plurality of production stations, wherein the selected production station is configured to receive the selected medical image data and the related medical image data to produce a data storage medium that has recorded on it the selected and the related medical image data (column 3, lines 12-30).

Herzog fails to specifically teaches recording viewing program on the medium.

Tahara teaches a recording apparatus for recording images and a viewing program on a medium , the viewing program configured to view the image data . (See Abstract , column 7, lines 40-68).

Art Unit: 2621

It would have been obvious to one of ordinary skill in the art to modify Herzog with Tahara by using a viewing program recording means as taught by Tahara for recording a viewing program with the images on the medium of Herzog thereby enabling viewing the images when needed.

Regarding claims 3-4, Herzog fails to teach the first device is configured to print a label on said portable digital recording medium.

Nishihara teaches a system for receiving the image data and associated labels and for storing the image data and associated label on a file (column 10, lines 20-35).

It would have been obvious to one of ordinary skill in the art to modify Herzog with Nishihara by providing the images data of Herzog with associated labels thereby enhancing the capability of the system of Herzog in retrieving the images data.

Herzog as modified with Nishihara fails to specifically teach the use of a printer for printing the labels.

However, it is noted that using a printer for printing an image from a stored or received image is well known in the art. Therefore, Official Notice is taken and it would have been obvious to one of ordinary skill in the art to modify Herzog as modified with Nishihara by using a printer for printing the label on the disc.

Herzog fails to teach an audit module for providing auditable trail for the selected medical images data. However, it is noted that providing an audit module for providing auditable trail for the selected images data is well known in the art as taught by Wong. Wong teaches using a module for providing an auditable trail for selected images data for security purposes (column 1, lines 5-11, column 10, lines

Art Unit: 2621

40-47). Therefore, it would have been obvious to one of ordinary skill in the art to modify Herzog with Wong by using an audit module with system of Herzog for providing an auditable trail for selected imaged data thereby enhancing the capacity of the system of Herzog .

Regarding claims 38, Herzog further teaches the portable digital recording medium is an optical disk and is a CD (column 3, lines 40-50).

Regarding claim 39, Herzog as modified with Wong further teaches that the auditable trail of the selected images data includes a record of when the selected medical image data and the related medical image data were recorded onto the data storage medium (See Wong, column 10, lines 40-47).

Regarding claim 40, Herzog as modified with Wong further teaches an image scanner generating the image data in a DICOM format (See Herzog, column 2, lines 52-54, Wong, column 2, lines 15-60).

Regarding claim 40, Herzog further teaches the medical image server is configured to provide medical image data to the application server in response to generation of medical image data by an imaging modality coupled to the medical image server (column 2, lines 20 to column 3, line 50, Figs. 1 and 2) .

Regarding claim 42 , Herzog as modified with Wong further teaches the application server further comprises a user authentication module configured to authenticate - a user's identification before the user is allowed to access the selection module (See Wong , column 10, lines 30-45).

Regarding claim 43 , Herzog further teaches the application server further

Art Unit: 2621

includes a database (22, Fig. 2) configured to store medical image data. received from the medical image server ( column 2,line 47 to column 3, line 32) .

Regarding claim 44, Herzog further the selection module is further configured to provide the user with a listing of patients having medical image data stored in the database (column 3, lines 22-57).

3. Claim 45,46 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Tahara et al (5,909,551).

Regarding claim 45, , Herzog discloses a system for selecting and automatically recording medical image data onto a data storage medium, the system being connected to a medical image server, the system comprising:

an application server;

a plurality of production stations( 19,21,20); a plurality of browsing terminals; (column 4,lines 15-23)

a network connecting the application server (column 4, lines 15-23, Figs 1-2) the plurality of production stations and the plurality of browsing terminals, wherein the application server is configured to receive medical image data from the medical image server, the application server further comprising:

a selection module configured to allow a user to select selected medical image data via at least one of (a) a selected one of the plurality of browsing terminals and (b) the application server (column 3, lines 30-55, column 4, lines 15-25) ,

a search module configured to automatically search the medical image server for related medical image data that is related to the selected medical image data, a configuration data module configured to allow a user to input identifying information relating to the selected medical image data (column 3, lines 20-30) , a production station selection module configured to allow a user to select one of the plurality of production stations, wherein the selected production station is configured to receive the selected medical image data and the related medical image data to produce a data storage medium that has recorded on it the selected and the related medical image data (column 3, lines 12-30).

Herzog fails to specifically teaches recording viewing program on the medium.

Tahara teaches a recording apparatus for recording images and a viewing program on a medium , the viewing program configured to view the image data . (See Abstract , column 7, lines 40-68).

It would have been obvious to one of ordinary skill in the art to modify Herzog with Tahara by using a viewing program recording means as taught by Tahara for recording a viewing program with the images on the medium of Herzog thereby enabling viewing the images when needed.

Regarding claim 46, Herzog further the selection module is further configured to provide the user to input identification related to the medical image data stored in the database (column 3, lines 22-57).

Regarding claim 51, Herzog further teaches the portable digital recording



Art Unit: 2621

medium is an optical disk and is a CD (column 3, lines 40-50).

4. Claims 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Tahara et al (5,909,551) as applied to claims 45 above, further in view of Nishihara et al (5,272,625).

Regarding claim 47, Herzog fails to teach the first device is configured to print a label on said portable digital recording medium.

Nishihara teaches a system for receiving the image data and associated labels and for storing the image data and associated label on a file (column 10, lines 20-35).

It would have been obvious to one of ordinary skill in the art to modify Herzog with Nishihara by providing the images data of Herzog with associated labels thereby enhancing the capability of the system of Herzog in retrieving the images data .

Herzog as modified with Nishihara fails to specifically teaches the use of a printer for printing the labels.

However, it is noted that using a printer for printing an image from a stored or received image is well known in the art . Therefore, Official Notice is taken and it would have been obvious to one of ordinary sill in the art to modify Herzog as modified with Nishihara by using a printer for printing the label on the disc.

5. Claims 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Tahara et al as applied to claim 45 above further in view of in view of Wong (6,260,021).

Regarding claims 48-50 , Herzog fails to teaches an audit module for providing

Art Unit: 2621

auditable trail for the selected medical images data .. However, it is noted that providing an audit module for providing auditable trail for the selected images data is as well known in the art as taught by Wong . Won teaches using a module for providing an auditable trail for selected images data for security purposes (column 1, lines 5-11, column 10, lines 40-47). Therefore, it would have been obvious to one of ordinary skill in the art to modify Herzog with Wong by using an audit module with system of Herzog for providing an auditable trail for selected imaged data thereby enhancing the capacity of the system of Herzog .

6. Claims 52 and 54-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Tahara et al (5,909,551) as applied to claims 45 above, further in view of Nishihara et al (5,272,625).

Regarding claims 52 and 58, Herzog discloses a system for selecting and automatically recording medical image data onto a data storage medium, the system being connected to a medical image server, the system comprising:

an application server;

a plurality of production stations( 19,21,20); a plurality of browsing terminals; (column 4,lines 15-23)

a network connecting the application server (column 4, lines 15-23, Figs 1-2) the plurality of production stations and the plurality of browsing terminals, wherein the application server is configured to receive medical image data from the medical image server, the application server further comprising:

Art Unit: 2621

a selection module configured to allow a user to select selected medical image data via at least one of (a) a selected one of the plurality of browsing terminals and (b) the application server (column 3, lines 30-55, column 4, lines 15-25) ,  
a search module configured to automatically search the medical image server for related medical image data that is related to the selected medical image data,  
a configuration data module configured to allow a user to input identifying information relating to the selected medical image data (column 3, lines 20-30) ,  
a production station selection module configured to allow a user to select one of the plurality of production stations, wherein the selected production station is configured to receive the selected medical image data and the related medical image data to produce a data storage medium that has recorded on it the selected and the related medical image data (column 3, lines 12-30).

Herzog fails to specifically teaches recording viewing program on the medium.

Tahara teaches a recording apparatus for recording images and a viewing program on a medium , the viewing program configured to view the image data . (See Abstract , column 7, lines 40-68).

It would have been obvious to one of ordinary skill in the art to modify Herzog with Tahara by using a viewing program recording means as taught by Tahara for recording a viewing program with the images on the medium of Herzog thereby enabling viewing the images when needed.

Herzog fails to teach a device is configured to print a label on said portable digital recording medium.

Nishihara teaches a system for receiving the image data and associated labels and for storing the image data and associated label on a file (column 10, lines 20-35).

It would have been obvious to one of ordinary skill in the art to modify Herzog with Nishihara by providing the images data of Herzog with associated labels thereby enhancing the capability of the system of Herzog in retrieving the images data .

Herzog as modified with Nishihara fails to specifically teaches the use of a printer for printing the labels.

However, it is noted that using a printer for printing an image from a stored or received image is well known in the art . Therefore, Official Notice is taken and it would have been obvious to one of ordinary sill in the art to modify Herzog as modified with Nishihara by using a printer for printing the label on the disc.

Regarding claims 54-55, Herzog further teaches using identification and a list patient (column 3, lines 10-57).

Regarding claim 56, Herzog as modified with Wong further teaches an image scanner generating the image data in a DICOM format (See Herzog, column 2, lines 52-54) .

Regarding claims 57, Herzog further teaches the portable digital recording medium is an optical disk and is a CD (column 3, lines 40-50).

7. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over Herzog (6,241,668) in view of Tahara et al and Nishihara as applied to claim 52 above further in view of in view of Wong (6,260,021).

Regarding claim 53 , Herzog fails to teaches an audit module for providing auditable trail for the selected medical images data .. However, it is noted that providing an audit module for providing auditable trail for the selected images data is s well known in the art as taught by Wong . Won teaches using a module for providing an auditable trail for selected images data for security purposes (column 1, lines 5-11, column 10, lines 40-47). Therefore, it would have been obvious to one of ordinary skill in the art to modify Herzog with Wong by using an audit module with system of Herzog for providing an auditable trail for selected imaged data thereby enhancing the capacity of the system of Herzog .

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 2621

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

H.N

HUY T. NGUYEN  
PRIMARY EXAMINER